

REMARKS

Claims 1, 3-5, 7-12, and 14-22 have been amended. Claims 2 and 13 have been cancelled. Claims 1, 3-12, and 14-22 are all the claims pending in the application.

Interview Summary

Applicant thanks the Examiner for the personal interview with the Applicant's representatives, Kevin C. Kunzendorf and Laura E. Moskowitz, on January 18, 2006. During the interview, claims 1, 18, 12, 19, and 22 were discussed in relation to the Ball and McCreery references. Agreement with respect to the claims was not reached. However, the Examiner indicated that defining the claimed user as an end-user could overcome the art rejection based on McCreery.

Formal Matters

In the previous Office Actions of December 1, 2004 and May 13, 2005, the Examiner has not indicated the status of the drawings filed on February 21, 2001. Applicant respectfully requests the Examiner to accept the drawings as filed.

Substantive Matters

As an initial matter, the Examiner states on page 3, paragraph 4 of the present Office Action that "the Office maintains the rejections set forth in the previous action, dated 8.16.2005. However, Applicant believes this statement to be in error, because the previous action was mailed May 13, 2005.

Claim rejection -- 35 U.S.C. § 112, Second paragraph

Claim 5 stands rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. During the interview, the Examiner indicated that the rejection was obviated by Applicant's Response filed on August 26, 2005. Therefore, Applicant respectfully requests the Examiner to withdraw the rejection.

Claims 1-7 and Claims 12-18

Claims 1 and 12 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Ball. Applicant has amended claim 1 to incorporate the limitations of claim 2, and has amended claim 12 to incorporate the limitations of claim 13. Claims 2 and 13 have thus been cancelled.

Claim 1 includes the limitation of a first memory which stores a user management table that includes IP addresses of users, a monitoring parameter, and a threshold parameter. The Examiner contends that this limitation is met by Ball at col. 12, lines 66 to col. 13, lines 3; col. 14, lines 3-17; col. 14, lines 49 to col. 15, line 49; col. 31, line 64 to col. 32, line 4; and col. 32, lines 35-39.

While Ball shows various elements of information, Ball does not show that each of these pieces of information are pulled together into a table in a single memory, as required by the claim. For example, the IP address and FLOW_DESC and metrics, which allegedly correspond to the claimed IP addresses and monitoring parameter, are part of the Entity Identifier data structures (col. 12, lines 66-67). However, the template, which allegedly corresponds to the

claimed threshold parameter, are part of the service management system described later at col. 32. The data structures of the Entity Identifier and the service management system are not associated with each other. Thus, they logically cannot be part of a user management table stored in a first memory, as required by the claim. Therefore, claim 1 is patentable over Ball. Claim 12 recites a similar limitation, and is thus patentable over Ball for at least the reason presented above with respect to claim 1. Applicant thus respectfully requests that the Examiner withdraw the rejection.

Claims 2, 5, and 13 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ball in view of Ikudome. Claims 3-7 and 14-18 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ball and Ikudome, in further view of McCreery. Claims 2 and 13 have been cancelled.

Claims 3-7 depend from claim 1, and claims 14-18 depend from claim 12, and the rejections of the same are based, in part, on the Examiner's combination of the Ball reference with Ikudome and/or McCreery. Because neither Ikudome nor McCreery provide the missing user management table stored in a first memory required by independent claims 1 and 12, claims 3-7 and 14-18 are allowable based on their dependencies from claims 1 and 12 for at least the same reasons described above.

Claims 8-11 and Claims 19-22

Claims 8 and 9, and 19 and 20 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ball in view of McCreery. Claims 10 and 11, 20 and 21 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ball and McCreery in view of Ikudome.

Independent claims 8 and 19 recite, among other things, making annunciation to the end-user. The Examiner asserts that Ball discloses the remaining limitations of claims 8 and 19. To supply the missing “annunciation”, the Examiner asserts that McCreery discloses an alarm generation section 270 which allegedly performs an annunciation function similar to that of the claims.

In response to Applicant’s arguments at pages 14-15 of the August 26, 2005 Amendment, the Examiner further asserts that the term “user” as used in independent claims 8 and 19 is broad enough to encompass the “selected individuals” who are alerted in McCreely. Specifically, the Examiner asserts that there are no limitations that distinguish the “users” in independent claims 8 and 19 from the “selected individuals” of McCreely.

McCreery is concerned with analyzing internet activity, and specifically monitoring packets to rate internet usage and monitor internet performance, information typically contained, for example, in a system log file. These activities are typically performed by system administrators, managers of internet sites, and ISPs. Elsewhere, McCreery clearly distinguishes a “group of users” who access the network without passage through a single server, *i.e.* end users, as being, for example, those in a college computer lab. (col. 2, lines 64-67). Moreover, in

discussing the alarm generation section 270, McCreery specifically mentions that only managers of internet sites and ISP are alerted by the alarm generation section 270. (col. 5, lines 45-47). Only managers and system administrators need to know of problems or crashes on the network or servers on the network. It is the aggregate activity of all the end-users that is being monitored. The alert thus issues to the “selected individuals” where traffic levels *for the entire network media* exceed predetermined levels. It is thus clear that the notification in McCreery is to these “selected individuals” and not to the end-user present in the college computer lab, because the end-users would have no need of this information.

In comparison, claims 8 and 19 recite the limitation of making annunciation to an end-user when there is a certain rule. This rule is tied to the activities of an end user who has logged into a terminal, and is not based on usage levels of the entire network. Moreover, from the internal structure of independent claims 8 and 19, it is clear that the term “user” refers to an end-user of the system and not to managers of Internet sites and Internet Service Providers. For example, in claim 8, an end-user connects to an application server. The end-user logs into a terminal (step a) and acquires a monitoring parameter. Monitoring of packets occurs in relation to the end-user’s acquired monitoring parameter, and an annunciation may be made to the end-user if there is a certain rule. The Examiner will appreciate that this end-user focus is different from the manager / system administrator / whole network focus of McCreery. Applicant has amended independent claims 8 and 19 to clarify this distinction.

Therefore, based on Applicant's arguments and amendments above and Applicant's arguments in the August 26, 2005 Amendment, independent claims 8 and 19 are patentable over Ball and McCreery, alone or in combination.

Claims 9-11 depend from claim 8, and claims 20-22 depend from claim 19, and the rejections of the same are based, in part, on the Examiner's combination of the Ball reference with Ikudome and/or McCreery. Applicant has amended the dependent claims consistent with the amendments to claims 8 and 19, and has shown above that independent claims 8 and 19 are patentable over the Ball and McCreery references, alone or in combination. Ikudome contains no relevant teachings regarding making annunciation to the end-user. Therefore, not one of Ball, Ikudome, or McCreery, nor any combination of these references, teach all of the features of claims 9-11 and 20-22. As such, claims 9-11 and 20-22 are allowable based on their dependencies from claims 8 and 19 for at least the same reasons described above.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Amendment Under 37 C.F.R. § 1.116
USAN 09/788,566

Q63195

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'H. Bernstein', written over a horizontal line.

Howard L. Bernstein
Registration No. 25,665

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: February 22, 2006